UNITED NATIONS **A**

General Assembly

Distr.
GENERAL

A/CONF.189/PC.3/6
26 July 2001

Original: ENGLISH

WORLD CONFERENCE AGAINST RACISM,
RACIAL DISCRIMINATION, XENOPHOBIA
AND RELATED INTOLERANCE

Preparatory Committee
Third session
Geneva, 30 July-10 August 2001
Item 5 of the provisional agenda

DRAFT DECLARATION AND PROGRAMME OF ACTION

Explanatory note by the Chairperson on the proceedings of the Group of 21 concerning the draft Declaration

This document contains a summary of the outcome of the discussions of the Group of 21 and an explanation of the proceedings concerning the draft Declaration. It provides a means for tracing the history of each paragraph of the draft Declaration contained in document A/CONF.189/PC.2/27.

GE.01-14735 (E) 290701

Introduction

1. The Group of 21 was established by decision PC.2/3 of the Preparatory Committee for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on 1 June 2001 with a mandate:

(a) To make proposals for further reorganization of the text including determining the location of paragraphs;

(b) To make proposals for merging or consolidating paragraphs;

(c) To make proposals for deleting paragraphs; and

(d) To make proposals to make the text more compact and workable to facilitate the negotiations.

2. In keeping with that mandate, the Group held its first session from 5 to 15 June 2001. The Bureau of the Preparatory Committee, in consideration of the amount of work still to be completed by the Group, decided, at its meeting on 15 June, that the Group should continue until 29 June 2001.

3. In its early stages of merging paragraphs with similar elements, the Group experienced initial problems with respect to its methods of work, especially the manner of merging paragraphs. The question of the practical application of the mandate of the Group came under scrutiny. As such cases arose the Chairperson had to intervene by making rulings some of which were opposed by some delegations, resulting in the convening of an extraordinary meeting of the Bureau on 7 June 2001 for reassurance and guidance of the Group. The Bureau in its ruling on these issues reassured the Chairperson with respect to his methods of work and generally cautioned delegations to refrain from being obstructive to the achievement of the mandate of the Group. The Bureau further ruled that bracketing and/or highlighting phrases or paragraphs by the Group was not necessary as the general understanding is that the entire document is bracketed for negotiation by the Preparatory Committee at its third session.

4. The dynamics within the Group were sometimes extremely cumbersome and time consuming, especially in areas where some members of the Group lost their creativity in dealing with paragraphs where a number of alternatives existed, e.g. "urges/encourages/invites and requests". The Group chose to leave such alternatives to the Preparatory Committee to resolve.

5. In reviewing document A/CONF.189/PC.2/27, the Group identified 83 duplicated paragraphs that were consequently deleted by consensus. In its merging exercise, the Group deleted 232 paragraphs without losing any substantive element. In this process, the Group

managed to reduce the size of the original document by approximately 40 per cent. The Group therefore decided to produce a new working document/clean text as a basis for negotiations by a third session of the Preparatory Committee. Separate supporting documents (tables) explaining the methods of deletion and merging are annexed to this report for the information of delegates.

6. Despite differences in approaches and actual understanding/practical interpretation of its mandate, the Group managed to merge approximately 95 per cent of the paragraphs by consensus. In this process, there was general agreement on the arrangement of elements in the different paragraphs that were produced as a result of such merging. After considerable debate the Group also agreed on a specific ordering of paragraphs according to topic and category of victims in both the Declaration and Programme of Action. In both cases consistency was maintained.

7. There were, however, areas where consensus could not be secured in relation to merging the remaining 5 per cent of the problematic paragraphs. The lack of consensus was usually not based on the actual substance of the matter, but largely on a concern held by some delegations that tampering with language by the Group could easily alter the meaning or content of the paragraph. There was extreme caution on the part of some delegations not to engage in such "substantive" discussions, which could easily be viewed as inconsistent with the mandate of the Group. Some of the issues on which consensus could not be reached and whose resolution required a ruling by the Chairperson included:

(a) Globalization as a source of racism;

(b) Placement of paragraphs on globalization;

(c) Ordering of paragraphs on categories of victims;

(d) Insertion of Asians and people of Asian descent in a paragraph enumerating categories of victims;

(e) Definition of racial discrimination according to the International Convention on the Elimination of All Forms of Racial Discrimination and aggravated/multiple forms of discrimination.

8. In carrying out its mandate, the Group also decided:

(a) To relocate paragraphs from one theme to another according to the relevance of the content of the paragraph;

(b) To transfer paragraphs which were declaratory in nature from the Programme of Action to the Declaration, and in some cases merging them with existing paragraphs in that category;

(c) To reopen, for purposes of merging, some paragraphs marked "ongoing" by the Working Group when established at the second session of the Preparatory Committee.

9. The Group decided, by consensus, not to consider the merging and/or deletion of paragraphs relating to the sensitive issue of Palestine and the occupied territories. The Group felt that the language contained in paragraphs on the Middle East was extremely divisive and would not have produced any consensus within the Group.

10. The Group began with a document of 631 paragraphs and clustered paragraphs. It decided which of them belonged together and identified those that contained duplicated language and could therefore be proposed for deletion or merging. This process allowed the Group to reduce the document to 400 paragraphs. In the Declaration, about 20 paragraphs were deleted and 71 were merged into 30. In the Plan of Action, approximately 69 paragraphs were deleted because of their similarity with others and 161 were merged into 62.

11. The explanations which follow are relevant to the examination of the draft Declaration. The comments on the proceedings on the Plan of Action have been included in the addendum to this document (A/CONF.189/PC.3/6/Add.1).

Annex

Explanations of the proceedings on the draft Declaration

Paragraph following PP42: resulted from the merger of OP24 with OP25.

Paragraph 1: retained as it was and OP1bis was deleted because most of its elements are subsumed in New OP1bis alternative as amended.

Paragraph 2: adopted at Prep. Com. II.

Paragraph 3: adopted at Prep. Com. II.

Paragraph 4: resulted from the merger of OP3, OP2 and OP2 alternative because of their similar nature.

Paragraph 5: retained as it was (OP4bis5).

Paragraph 6: new 104 PoA, transferred to the Declaration.

Paragraph 7: retain as it was (OP10bis3).

Paragraph 8: resulted from the merger of OP17bis with OP17bis1.

Paragraph 9: resulted from the merger of OP17bis4 and the end of OP17 starting with the words "At present" and ending with "equitable".

Paragraph 10: retained as it was (OP6bis1).

Paragraph 11: resulted from the merger of OP1bis9 and OP1bis12 (part 1) which are similar in nature.

Paragraph 12: resulted from splitting OP1bis12 into two parts. The second part was retained as the current paragraph (OP1bis12, part 2).

Paragraph 13: resulting from the merger of OP1bis14 and OP13bis10 which are similar in nature.

Paragraph 14: retained as it was (OP1bis16), except the last sentence reading "The States must take effective measures to remove the effects of such manifestations" which was deleted because the ideas contained therein are covered in New OP1bis alternative.

Paragraph 15: retained as it was (OP1bis15).

Paragraph 16: resulted from the merger of OP1bis8 and OP20 which are similar in nature.

Paragraph 17: retained as it was (OP20 alternative).

Paragraph 18: retained as it was (OP1bis13). The words "today could constitute" were a subject of discussion. Some delegations felt that crimes against humanity should be recognized

as such at any time, in the past, today and in the future. From that perspective, slavery and the trans-Atlantic slave trade are crimes against humanity. Other delegations expressed the contrary opinion.

Paragraph 19: resulted from the merger of New 122 (PoA) and OP17bis3. Some delegations were opposed to keeping the words "colonial exploitation" which they requested to be bracketed. As a way of reaching consensus, the Chairperson proposed that these words be highlighted in bold but several delegations felt that it was beyond the mandate of the Group to modify the text in this manner. A meeting of the Bureau was called to resolve this procedural matter and the delegations concerned retrieved their proposal relating to the treatment of the words "colonial exploitation" while stressing that they will be open to negotiations within the Preparatory Committee.

Paragraph 20: retained with minor editorial changes (OP1bis2, part 2).

Paragraph 21: retained as it was (part of 31 PoA).

Paragraph 22: resulted from the merger of OP7bis3 with part of OP20bis2 reading "States and the international community should remain especially vigilant during periods of armed conflict and continue to combat all forms of racial discrimination".

Paragraph 23: retained as it was (OP10bis2).

Paragraph 24: retained as it was (OP20bis16).

Paragraph 25: retained with some amendments: the words "the persistence of" were inserted between "about" and the words "in the application of the law" added between "and in" and "as well as" (OP21bis3).

Paragraph 26: in order to broaden the scope of this paragraph, the list of victims referring in particular to Indigenous peoples, peoples of African descent and migrants was deleted. The end of this paragraph starting with "Underscore" was also deleted because it is captured in OP1bis and the list of victims contained therein was abandoned so as to broaden the scope of the text (OP21bis4).

Paragraph 27: retained with a minor editorial amendment. The word "fact" replaced "material progress" in the first line (OP10bis1).

Paragraph 28: retained with a minor editorial amendment which consisted of replacing "pursuant to" by "in accordance with" (OP20bis1).

Paragraph 29: resulted from merging OP1bis17 and OP5bis4 because of similar language. But the Group could not agree on the insertion of the words "Slavery, slave-trade, colonialism" before "The holocausts/Holocaust". This inclusion was proposed by some delegations which felt that such practices should also never be forgotten.

Paragraph 30: retained as it was (OP10bis4).

Paragraph 31: resulted from the merger of OP20bis19 with OP20bis15 which had similar language.

Paragraph 32: retained as it was (OP20bis18).

Paragraph 33: retained as it was. The Group felt that it could be moved to the beginning of the Declaration (OP6).

Paragraph 34: resulted from the transfer of part of New 128 (PoA) to the Declaration.

Paragraph 35: resulted from the merger of OP13bis9 and OP13bis12 because of their similarity.

Paragraph 36: resulted from the merger of the beginning of OP7bis with part of OP10 starting with "we also" on the eleventh line, and ending at "related intolerance".

Paragraph 37: retained as it was (OP4bis1).

Paragraph 38: retained as it was (OP13bis8).

Paragraph 39: retained as it was (OP13bis13), but the Group felt that this paragraph was too long and there was a proposal to consider seriously breaking it into two parts.

Paragraph 40: the end of the paragraph starting with "also note" and ending at "African descent" was deleted because the ideas contained in this sentence are covered in OP13bis7.

Paragraph 41: retained as it was (OP20bis9).

Paragraph 42: resulted from the merger of OP7bis9 and OP20bis8 because of their similar nature.

Paragraph 43: retained as it was (OP4bis) but GRULAC also proposed an alternative text, from the Declaration adopted at Santiago, which reads as follows:

> "Emphasize that, in order for indigenous peoples freely to express their own identity and exercise their rights, they should be free from all forms of discrimination, which necessarily entails respect for their human rights and fundamental freedoms and also urges States to allow indigenous peoples to call themselves by their own names; to participate freely and on equal footing in a country's political, economic, social and cultural development; to maintain their own forms of organization, lifestyles, cultures and

traditions; to maintain their own languages; to maintain their own economic structures in the areas where they live; to take part in the development of their educational systems and programmes; to manage their lands and natural resources, including hunting and fishing rights; and to have access to justice on a basis of equality".

Paragraph 44: the last sentence starting with "We also" was moved up to the beginning of the paragraph and the words "the full enjoyment of" and "as well as the benefit of sustainable development" were added (OP7bis8).

Paragraph 45: retained as it was (OP20bis17).

Paragraph 46: retained with a slight amendment. The words "in concert with" were replaced by "in consultation with" (OP7bis10).

Paragraph 47: resulted from the transfer of 80 PoA to the Declaration.

Paragraph 48: retained as it was (OP4bis2).

Paragraph 49: resulted from the transfer from the PoA to the Declaration of New 133 merged with new 135.

Paragraph 50: resulted from the merger of OP7bis4 and OP7bis5 which had similar language.

Paragraph 51: retained as it was (OP4bis3).

Paragraph 52: retained with slight amendments. The words "bear in mind" were replaced by "we are mindful" and "states" by "countries" (OP7bis7).

Paragraph 53: The Group did not consider this paragraph because it was felt that the deletion or merging process would imply substantive discussions which went beyond its mandate (OP7bis6).

Paragraph 54: resulted from the transfer of New 137 (PoA) to the Declaration.

Paragraph 55: resulted from the transfer of 62bis, part 1 (PoA) to the Declaration.

Paragraph 56: resulted from the transfer of New 153 PoA to the Declaration.

Paragraph 57: resulted from the transfer of part of 65 (PoA) to the Declaration.

Paragraph 58: resulted from the transfer of part of 66 (PoA) to the Declaration.

Paragraph 59: resulted from the merger of OP4bis4 and OP10bis8 and OP10bis9 which contain similar ideas.

Paragraph 60: retained with a slight amendment. The words "express our deep concern" were moved to the beginning of the paragraph and "recall with" and "about this situation" were deleted (OP10bis5).

Paragraph 61: retained as it was (OP20bis5).

Paragraphs 62, 63, 64, 65, 66, 67: the Group did not consider these paragraphs because it was felt that the deletion or merging process would imply substantive discussions which went beyond its mandate (OP10bis6, OP20bis3, OP20bis4, OP20bis7, OP20bis10, OP20bis11).

Paragraph 68: resulted from the merger of OP13bis and OP13bis alt. which have similar language. GRULAC felt that the following text could also be considered as an alternative: "Also recognizes that racism, racial discrimination, xenophobia and related intolerance manifest themselves in an aggravated and differentiated manner for women, causing their living standards to deteriorate, generating multiple forms of violence, and limiting or denying them the benefit and exercise of their human rights, and in this regard urge States to consider this phenomenon in the formulation of strategies and programmes against racism, racial discrimination, xenophobia and related intolerance, and to integrate a gender perspective".

Paragraph 69: resulted from the transfer of 29bis PoA to the Declaration.

Paragraph 70: retained with slight amendments (OP14bis1).

Paragraph 71: retained as it was (OP13bis1).

Paragraph 72: resulted from the transfer of 45 bis2 (PoA) to the Declaration.

Paragraph 73: resulted from the transfer of 98 (PoA) to the Declaration

Paragraph 74: resulted from the merger of OP18 and OP18bis.

Paragraph 75: resulted from the transfer of part of New 128 (PoA) to the Declaration.

Paragraph 76: OP7bis was divided into three parts. The middle part which started with "also note" and ends at "medication" was retained.

Paragraph 77: retained as it was (OP1bis10).

Paragraph 78: resulted from the merger of OP7 and OP7alt2 which were similar in nature.

Paragraph 79: resulted from the merger of OP17bis2 and OP7bis1 which had similar language.

Paragraph 80: resulting from slightly amending OP8; the first sentence starting with "We firmly believe" and ending at "societies" was deleted.

Paragraphs 81 and 82: the result of splitting OP10. The two last sentences of that paragraph were retained to form OP10 (third and fourth).

Paragraph 83: resulted from merging OP1bis, OP10bis7 and OP7bis2.

Paragraph 84: retained as it was (OP4).

Paragraph 85: retained as it was (OP3bis).

Paragraph 86: retained as it was (OP2bis).

Paragraph 87: retained as it was (OP1).

Paragraph 88: resulted from the transfer of 4 (PoA) to the Declaration.

Paragraph 89: resulted from the transfer of 69bis1 (PoA) to the Declaration and slightly amended by introducing the words "we strongly condemn the persistence and resurgence of".

Paragraph 90: resulted from the merger of OP1bis4, OP11bis, OP1bis3 and OP5bis3.

Paragraph 91: retained as it was (OP15bis).

Paragraph 92: retained as it was (OP15bis2).

Paragraph 93: retained as it was (OP15bis1).

Paragraph 94: resulted from the merger of paragraphs 24 and 24bis carried over from the PoA.

Paragraph 95: resulted from the transfer of 24bis1 (PoA).

Paragraph 96: retained as it was (OP15 alt.2).

Paragraph 97: resulted from the merger of OP15 with OP15 alt.1 and OP15bis3.

Paragraph 98: resulted from the merger of OP15 alt.1 and part of OP16.

Paragraph 99: resulted from the transfer of the second part of 14 (PoA) to the Declaration.

Paragraph 100: resulted from the merger of OP12bis and OP12bis1.

Paragraph 101: resulted from the merger of OP14, OP14 alt.1 and OP14bis2.

Paragraph 102: resulted from the merger of OP14 alt.2 with OP14bis3.

Paragraph 103: resulted from the transfer of New 74 (PoA) to the Declaration.

Paragraph 104: resulted from the transfer of 7 (PoA) to the Declaration.

Paragraph 105: retained as it was (OP14bis).

Paragraph 106: slightly amended by replacing the words "considering the recognition" by "We recognize" at the beginning of the paragraph and inserting the words "forms of" after "institutionalized"(OP5bis1).

Paragraph 107: retained as it was (OP21bis).

Paragraph 108: resulted from merging OP20bis6 with OP21bis2, last part, which reads "fundamental prerequisite for the creation of the peace of mind of all parties involved, which gives future efforts better chances of success".

Paragraph 109: resulted from the merger of OP21bis1 with OP21bis2.

Paragraph 110: retained as it was (OP13bis5).

Paragraph 111: resulted from the merger of OP19bis with OP20bis13.

Paragraph 112: in spite of the attempt at rationalizing this paragraph (OP5), the Group could not agree on the various proposals. It was only acknowledged that the words "salute the memory of their victims" were already included in OP6. The following proposals were considered:

(a) Moving the words "[Recognize the right of victims and their heirs for justice, dignity, respect and correction of, and compensation for, the historical wrongs and their continuing consequences]" to the end of OP6;

(b) Retain the remaining part of OP5 with the following words "We are conscious that humanity's history is replete with terrible wrongs inflicted through lack of respect for the equality of human beings/*through lack of recognition of human dignity and rights* manifested through [wars], [*military occupation by settlement*] [*and settlement policies*], genocide, slavery, *in particular, the transatlantic slave trade*, holocausts, [*colonialism*], apartheid, ethnic cleansing and other atrocities, *and we salute the memory of their victims* [and we understand/*acknowledge* the quest] of/*recognize the right of* the victims and their heirs for justice, dignity, respect and correction of, *and compensation for, ~~the~~ historical wrongs and their* continuing consequences ~~of historical wrongs~~]. [We call for open national and international dialogue *as required* to address these concerns]."

(c) Retain only these elements: "We are conscious that humanity's history is replete with terrible wrongs inflicted through lack of respect for the equality of human beings [We call for open national and international dialogue *as required* to address these concerns];

Paragraph 113: resulted from the merger of the first part of OP1bis11 and the first part of OP20bis. The world "colonialism" has been bracketed because some delegations stressed that it was not in the original paragraphs which served for the merging.

Paragraph 114: retained as it was (OP5bis2).

Paragraph 115: retained as it was (OP20bis2).

Paragraph 116: resulted from the merger of the second part of OP1bis11 with the last part of OP20bis14.

Paragraph 117: retained as it was (OP19bis1).

Paragraph 118: resulted from the merger of OP19 alt. with OP19.

Paragraph 119: retained as it was (OP24bis)

Paragraph 120: retained as it was (OP13bis2).

Paragraph 121: resulted from the transfer of the first part of 5 alt. (PoA) to the Declaration.

Paragraph 122: retained as it was (OP22bis).

Paragraph 123: retained as it was (OP9bis).

Paragraph 124: retained as it was (OP22).

Paragraph 125: resulted from the transfer of 15bis (PoA) to the Declaration.

Paragraph 126: retained as it was (OP9bis1).

Paragraph 127: resulted from the transfer of part of 36bis1 (PoA) to the Declaration.

Paragraph 128: resulted from the merger of OP9 alt. and part of OP24.

Paragraph 129: resulted from the transfer of 37 PoA to the Declaration.

Paragraph 130: retained as it was (OP23).

Paragraph 131: resulted from the merger of OP9bis3 and OP23bis.

OP10bis: this paragraph was deleted but the African Group stressed that the list of victims contained in it ("nationals of different origins, migrant workers, asylum-seekers, refugees, internally displaced persons and foreigners" should be retained somewhere.

Appendix I

TABLE OF DELETIONS

Paragraph numbers	Reason
New OP1bis	Alternative to new OP1bis alt.
OP1bis1	Covered by OP20bis16
OP20bis2	Part deleted and part included in OP7bis3
OP20bis19	Parts deleted and part included in (part of) 31
OP21	Covered by other paragraphs in the sub-section / to the PoA
OP21 (second paragraph)	Covered by other paragraphs in the sub-section / to the PoA
OP13bis4	Covered by OP21 / to the PoA
OP8bis	Covered by OP13bis13
OP7 alt.1	Covered by OP7 (merged)
OP11	Covered by OP1bis (merged)
OP12	Covered by other paragraphs
OP12 alt.	Covered by other paragraphs
OP12bis1	Part deleted and part moved to education OP14
OP3bis	Covered by OP2bis
OP13bis3	Covered by several paragraphs in the sub-section (OP13bis, OP19bis)
OP10bis	Covered by other paragraphs in the sub-section
OP10	Parts moved to Principles and parts deleted (similarities with OP6bis)
OP9	Covered by OP9bis1
OP9bis2	Covered by OP9bis3
OP23bis	Covered by OP9bis3

Appendix II

TABLE OF MERGERS

Paragraph numbers in A/CONF.189/PC.3/7	Paragraph numbers in A/CONF.189/PC.2/27	Page numbers in A/CONF.189/PC.2/27
Paragraph following pp.42	OP24 and OP25	30 and 31
4	OP3, OP2 and OP2 alt.	9 and 10
8	OP17bis and OP17bis1	23 and 24
9	OP17bis4 and OP17	23 and 24
11	OP1bis9 and part of OP1bis12	8 and 9
13	OP1bis14 and OP13bis10	9 and 20
16	OP1bis8 and OP20	8 and 25
19	OP17bis3 and New 122 (from PoA)	24 and 67
22	OP7bis3 and part of OP20bis2	13 and 26
29	OP1bis17 and OP5bis4	9 and 12
31	OP20bis19 and OP20bis15	27 and 28
35	OP13bis9 and OP13bis12	20 and 21
36	OP7bis and part of OP10	13 and 16
42	OP7bis9 and OP20bis8	14 and 26
49	New 133 (from PoA) and new 135 (from PoA)	80
50	OP7bis4 and OP7bis5	13 and 14
59	OP4bis4, OP10bis8 and OP10bis9	11 and 17
68	OP13bis and OP13bis alt.	19
74	OP18 and OP18bis	24
78	OP7 and OP7alt.2	12 and 13
79	OP17bis2 and OP7bis1	13 and 24
83	OP1bis, OP10bis7 and OP7bis2	7, 13 and 17

90	OP1bis4, OP11bis, OP1bis3, and OP5bis3	7, 8, 12 and 18
94	OP24 (from PoA) and OP24bis (from PoA)	65 and 66
97	OP15, part of OP15 alt.1 and OP15bis3	22 and 23
98	OP16, part of OP15 alt.1	22
100	OP12bis and OP12bis1	18
101	OP14, OP14 alt.1 and part of OP14bis2	21 and 22
102	OP14 alt.2 and OP14bis3	21 and 22
108	OP20bis6 and part of OP21bis2	26 and 29
109	OP21bis1 and part of OP21bis2	29
111	OP19bis and OP20bis3	25 and 26
113	Part of OP1bis11 and OP20bis	8 and 25
116	OP20bis14 and part of OP1bis11	8 and 27
118	OP19 and OP19 alt.	24 and 25
128	OP9 alt. and OP24	15 and 30
131	OP9bis3 and OP23bis	15 and 30